

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARIYAM AKMAL,

Plaintiff,

V.

GLOBAL SCHOLAR, et al.,

Defendants.

CASE NO. C14-1859JLR

ORDER ON MOTION TO DISMISS

I. INTRODUCTION

Before the court is Defendant GlobalScholar LLC’s (“GlobalScholar”)¹ motion to dismiss pro se Plaintiff Mariyam Akmal’s amended complaint for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6), or in the alternative, for a more definite statement under Rule 12(e). (2d MTD (Dkt. # 27); *see also* Am. Compl. (Dkt. # 26).) Ms. Akmal has filed nothing in opposition. (*See* Dkt.) The court has reviewed the

¹ GlobalScholar LLC is incorrectly named in the caption as “Global Scholar.” (See 1st MTD (Dkt. # 10) at 1.)

1 motion, GlobalScholar's reply memorandum (Reply (Dkt. # 28)), the amended complaint,
 2 the record, and the relevant law. Being fully advised, the court GRANTS
 3 GlobalScholar's motion and DISMISSES Ms. Akmal's claims against GlobalScholar
 4 with prejudice and without leave to amend.

5 **II. BACKGROUND**

6 This is a case involving allegations of employment discrimination. According to
 7 her amended complaint,² Ms. Akmal worked for GlobalScholar for several weeks in the
 8 spring of 2012. (See Am. Compl. ¶¶ 47, 52, 64, 66.) Ms. Akmal learned about a position
 9 at GlobalScholar through a staffing agency called Greythorn that is oriented toward
 10 technology workers. (See *id.* ¶¶ 17, 35, 45-47.) Ms. Akmal interviewed with
 11 GlobalScholar over the phone in early March 2012. (See *id.* ¶¶ 45-46.) In addition, she
 12 attended an in-person interview on March 13, 2012. (*Id.* ¶¶ 35, 46.) During the in-person
 13 interview, a GlobalScholar employee named Gunny asked Ms. Akmal about the origin of
 14 her last name, and Ms. Akmal told Gunny that she is a Muslim. (*Id.* ¶¶ 3, 35.) Ms.
 15 Akmal is also African American and over the age of 40. (*Id.* ¶¶ 4, 14.)

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18 ² The court addresses in this order only the plausibly pleaded, relevant factual allegations
 19 in Ms. Akmal's amended complaint. In addition to such allegations, the amended complaint
 20 contains numerous conclusory statements (*see, e.g.*, Am. Compl. ¶ 79 ("Defendants
 21 discriminated against Plaintiff Akmal in violation of Title VII when it [sic] terminated her
 22 because of their erroneous belief that due to being an adherent of the religion of Islam, that she
 has ties to terrorism, is a national security concern [sic], and/or is a danger or threat to others."))
 and allegations about events and conduct for which Ms. Akmal pleads no plausible connection to
 her present claims (*see, e.g.*, *id.* ¶¶ 36-42 (describing a series of events in which a police officer
 pulled Ms. Akmal over and ticketed her, Ms. Akmal hired a lawyer to defend her, and the lawyer
 allegedly defrauded Ms. Akmal)). The court disregards those allegations. *See infra* Part III.A.

1 After the in-person interview, GlobalScholar apparently offered Ms. Akmal a
2 position that she accepted. (*See id.* ¶¶ 46-48, 52.) She was initially set to start in late
3 March, but GlobalScholar moved her start date to April 2, 2012. (*See id.* ¶ 47.)
4 GlobalScholar also asked Ms. Akmal to attend a training session in Atlanta, Georgia, that
5 would begin on that day. (*See id.* ¶ 48.) Ms. Akmal was to pay to attend that session
6 from her own funds and then be reimbursed when she returned. (*Id.* ¶ 49.) She was short
7 of funds, however, and because of the change to her start date, her first paycheck would
8 not arrive until late April. (*See id.* ¶¶ 47, 49.) As a result, she asked Greythorn for an
9 advance on her first paycheck. (*Id.* ¶ 49.) Greythorn declined that request and instead
10 paid for Ms. Akmal to attend training in Atlanta. (*See id.* ¶ 50.) While in training, Ms.
11 Akmal met a Caucasian GlobalScholar employee named Megan who had started work
12 three weeks before training and therefore “had three [paid] weeks to learn the training
13 materials.” (*Id.* ¶ 51.)

14 Ms. Akmal began work at GlobalScholar’s Bellevue, Washington, office on April
15 9, 2012, following the completion of week-long training in Atlanta. (*See id.* ¶ 52.)
16 Things went well early on. (*See id.* ¶¶ 57-61, 63.) GlobalScholar managers were pleased
17 with Ms. Akmal’s work, and in late April 2012, assigned her to a special project and also
18 requested her resume in order to inform a client that she would be working on a particular
19 project for the client. (*See id.* ¶¶ 58-61.) Ms. Akmal was concerned that she was losing
20 her current position, but one of her supervisors, Ron Darin, assured her that “it’s a
21 compliment.” (*See id.* ¶¶ 58, 60.)

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1 A few days later, Ms. Akmal “was bombarded with what seemed to her to be a lot
2 of *extra* work.” (*Id.* ¶ 62 (emphasis in original).) Ms. Akmal’s schedule had become
3 busy as a result of being assigned to multiple teams. (*See id.* ¶¶ 58-60, 62-65.) Some of
4 her tasks were on different projects or for different clients, and consequently, Ms. Akmal
5 often had to switch tasks, which she found inefficient. (*See id.* ¶¶ 62, 64-65.) On May 2,
6 2012, she called her other supervisor, Dale Hill, and asked him if he could temporarily
7 remove some of her responsibilities or, alternatively, reorganize her responsibilities so
8 that she did not have to switch tasks as often. (*See id.* ¶¶ 64-65; *see also id.* ¶ 58.) Mr.
9 Hill declined that request. (*Id.* ¶ 65.) Shortly thereafter, Ms. Akmal received a call from
10 GlobalScholar’s Atlanta office, “notifying her that they were terminating her contract”
11 and providing no explanation other than “this isn’t working.” (*Id.* ¶ 66.)

12 Ms. Akmal was suspicious about the circumstances surrounding her termination.
13 (*See id.* ¶ 67 (noting that four GlobalScholar employees made a comment “which seemed
14 to reference the Islamic State” and that she therefore “went into defensive mode”)). This
15 suspicion prompted her to send GlobalScholar and Greythorn emails requesting
16 preservation of all records related to her pending possible litigation. (*See id.* ¶¶ 67, 70.)
17 Further, in June 2010, Ms. Akmal filed a charge with the Washington Human Rights
18 Commission (“WHRC”). (*Id.* ¶ 72.) WHRC declined to pursue her charge and
19 forwarded it to the Equal Employment Opportunity Commission (“EEOC”). (*Id.* ¶ 20.)
20 Ms. Akmal received a notice of right to sue from the EEOC in September 2014. (*Id.*
21 ¶ 21.)
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1 On December 9, 2014, Ms. Akmal filed her original complaint in this case and
 2 named GlobalScholar and Craig Chesser. (*See* Compl. (Dkt. # 4).)³ She alleged claims
 3 under Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e; 42
 4 U.S.C. § 1981 (“§ 1981”); and the Washington Law Against Discrimination (“WLAD”),
 5 RCW ch. 49.60, for racial, religious, age, and gender discrimination and retaliation. (*See*
 6 *id.* at 1-2.) On April 2, 2015, Ms. Akmal requested a 120-day extension of time to effect
 7 service of the complaint on the ground that she had recently obtained a lawyer who
 8 needed time to get acquainted with her case. (*See* 4/2/15 Mot. (Dkt. # 6).) The court
 9 granted her an additional 30 days to effect service (*see* 4/6/15 Order (Dkt. # 7)); however,
 10 Ms. Akmal never filed satisfactory proof of service (*see* Dkt.; 5/28/15 Order (Dkt. # 14)).
 11 As a result, the court dismissed the claims against Mr. Chesser. (5/28/15 Order at 1-2.)
 12 The court did not dismiss the claims against GlobalScholar because in the meantime
 13 GlobalScholar had appeared and filed a motion to dismiss. (*Id.* at 2.)

14 On May 27, 2015, GlobalScholar filed its first motion to dismiss. (1st MTD (Dkt.
 15 # 10).) The next day, Ms. Akmal filed a motion requesting additional time to respond to
 16 the motion to dismiss, again stating that her new lawyer needed time to get up to speed on
 17 her case. (*See* 5/28/15 Mot. (Dkt. # 13) at 1.) The court extended the time for response
 18 to June 22, 2015, but Ms. Akmal missed that deadline as well. (*See* 6/18/15 Order at 1-
 19 2.) On June 25, 2015, Ms. Akmal requested another extension of the already passed
 20 deadline, this time citing health problems to justify her tardiness. (*See* 6/25/15 Mot. at 1-
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22 ³ Ms. Akmal is proceeding in forma pauperis in this matter. (*See* Dkt. # 3.)

1 2.) The court granted Ms. Akmal until July 6, 2015, to respond. (6/29/15 Min. Order.)
 2 Once the briefs were in, the court granted GlobalScholar's motion on the basis that Ms.
 3 Akmal's original complaint failed to allege facts sufficient to support any of her claims.
 4 (See 7/13/15 Order (Dkt. # 25) at 4-5.) The court, however, granted Ms. Akmal leave to
 5 amend her complaint. (*Id.* at 6-7.)

6 On July 25, 2015, Ms. Akmal filed the amended complaint, which is the operative
 7 complaint at this time. (See Am. Compl.) The amended complaint asserts claims for
 8 race, age, sex, and religious discrimination and retaliation in violation of Title VII, §
 9 1981, and WLAD. (See *id.* ¶¶ 76-103.) On August 17, 2015, GlobalScholar filed its
 10 second motion to dismiss. (See 2d MTD.) In this motion, GlobalScholar again argues
 11 Ms. Akmal has not pleaded facts sufficient to support any of her claims against it. (See
 12 *id.* at 2, 6.) GlobalScholar also asks that dismissal be with prejudice and without leave to
 13 amend. (See *id.* at 15; Reply.) Ms. Akmal has not responded. (See Dkt.)
 14 GlobalScholar's second motion to dismiss is now before the court.

15 III. DISCUSSION

16 A. Legal Standard

17 When considering a motion to dismiss under Federal Rule of Civil Procedure
 18 12(b)(6), the court construes the complaint in the light most favorable to the non-moving
 19 party. *Livid Holdings Ltd. v. Salomon Smith Barney, Inc.*, 416 F.3d 940, 946 (9th Cir.
 20 2005). The court must accept all well-pleaded allegations of material fact as true and
 21 draw all reasonable inferences in favor of the plaintiff. See *Wyler Summit P'ship v.*
 22 *Turner Broad. Sys., Inc.*, 135 F.3d 658, 661 (9th Cir. 1998). "To survive a motion to

1 dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a
2 claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
3 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)); *see also Telesaurus*
4 *VPC, LLC v. Power*, 623 F.3d 998, 1003 (9th Cir. 2010). “A claim has facial plausibility
5 when the plaintiff pleads factual content that allows the court to draw the reasonable
6 inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 663.

7 The court, however, need not accept as true a legal conclusion presented as a
8 factual allegation. *Id.* at 678. Although the pleading standard announced by Federal
9 Rule of Civil Procedure 8 does not require “detailed factual allegations,” it demands more
10 than “an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Id.* (citing
11 *Twombly*, 550 U.S. at 555). A pleading that offers only “labels and conclusions or a
12 formulaic recitation of the elements of a cause of action” will not survive a motion to
13 dismiss under Federal Rule of Civil Procedure 12(b)(6). *Id.*

14 **B. Ms. Akmal’s Amended Complaint**

15 Ms. Akmal’s amended complaint contains four “claim[s] for relief”: (1)
16 discrimination on the basis of religion, race, age, and sex in violation of Title VII; (2)
17 discrimination on the basis of race in violation of § 1981; (3) discrimination on the basis
18 of religion in violation of WLAD; and (4) retaliation for engaging in protected activity in
19 violation of Title VII. (Am. Compl. at 26-34.) The court addresses each of these claims
20 below and finds that Ms. Akmal’s amended complaint fails to plausibly plead any of
21 them.

1 1. Religion, race, age, and sex discrimination under Title VII and § 1981

2 Courts evaluate discrimination claims under both Title VII and § 1981 using the

3 *McDonnell Douglas* framework.⁴ *See Cornwell v. Electra Cent. Credit Union*, 439 F.3d4 1018, 1028 (9th Cir. 2006) (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 8015 (1973)); *Manatt v. Bank of Am.*, NA, 339 F.3d 792, 797 (9th Cir. 2003). That framework6 requires the plaintiff to make out a *prima facie* case showing (1) that he or she was a

7 member of a protected class, (2) that he or she was qualified for and performing

8 adequately in the position in question, (3) that he or she suffered an adverse employment

9 action, and (4) either (a) that similarly situated employees outside the protected class

10 were treated more favorably, or (b) that other circumstances surrounding the adverse

11 action give rise to an inference of discrimination. *See Cornwell*, 439 F.3d at 1028;12 *Peterson v. Hewlett-Packard Co.*, 358 F.3d 599, 603 (9th Cir. 2004). Ms. Akmal fails to13 allege facts sufficient to show at least the fourth element of this framework.⁵14

15 ⁴ Ms. Akmal's age discrimination claim is properly analyzed under the Age
16 Discrimination in Employment Act ("ADEA"), 29 U.S.C. §§ 621-34, not Title VII, because age
17 is not a protected status under Title VII. *See* 42 U.S.C. § 2000e-2(a) (prohibiting discrimination
18 on the basis of "race, color, religion, sex, or national origin"). Nevertheless, the analysis does
19 not differ under the ADEA, as courts use the *McDonnell Douglas* framework to evaluate
20 discrimination claims under the ADEA as well as under Title VII and § 1981. *See Shelly v.*
21 *Geren*, 666 F.3d 599, 607-08 (9th Cir. 2012).22 ⁵ In a case that pre-dates the Supreme Court's decisions in *Iqbal* and *Twombly*, the Ninth
23 Circuit held that trial courts should not use the *McDonnell Douglas* framework to evaluate
24 discrimination claims at the pleading stage but should instead inquire only whether the complaint
25 offers a short and plain statement showing that the plaintiff is entitled to relief. *See Gilligan v.*
26 *Jamco Dev. Corp.*, 108 F.3d 246, 249 (9th Cir. 1997); *see also Swierkiewicz v. Sorema N.A.*, 534
27 U.S. 506, 508 (2002) (holding, before *Iqbal* and *Twombly*, that a Title VII complaint need not
28 contain specific facts establishing a *McDonnell Douglas* *prima facie* case). Several district
29 courts in this circuit have since held that *Iqbal* and *Twombly* impliedly overruled *Gilligan*. *See*

1 The termination of her contract constitutes the principal adverse employment
 2 action that Ms. Akmal identifies in her amended complaint. (See Am. Compl. ¶¶ 4, 79.)
 3 Yet the amended complaint provides no non-conclusory factual allegations linking the
 4 termination to Ms. Akmal's race, age, sex, or religion. Ms. Akmal alleges that
 5 GlobalScholar terminated her contract after she asked for her workload to be reduced or
 6 reorganized. (See *id.* ¶¶ 64-66.) She fails to allege, however, that GlobalScholar behaved
 7 differently toward a similarly situated employee outside one or more of her protected
 8 classes. *See Cornwell*, 439 F.3d at 1028. Nor does she identify other circumstances
 9 giving rise to an inference that GlobalScholar discriminated against her. *See Peterson*,
 10 358 F.3d at 603. She alleges that GlobalScholar knew she was a Muslim (*see Am. Comp.*
 11 ¶¶ 3, 35), and that some GlobalScholar employees made comments "which seemed to
 12 reference the Islamic state" (*id.* ¶ 67), but she does not allege that anyone at

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 16 *Borja-Valdes v. City & Cty. of S.F.*, No. 3:14-cv-04168-CRB, 2015 WL 5522287, at *8 (N.D.
 17 Cal. Sept. 18, 2015) (collecting cases). Whatever *Gilligan*'s status may be today, *Iqbal* and
 18 *Twombly* at least require an employment discrimination plaintiff to plead facts from which the
 court can reasonably infer a causal connection between the plaintiff's protected status and an
 19 adverse employment action. *See, e.g.*, 42 U.S.C. § 2000e(a) ("It shall be an unlawful
 20 employment practice for an employer-- (1) to . . . discriminate against any individual with
 respect to his compensation, terms, conditions, or privileges or employment, *because of* such
 21 individual's [protected status.]" (emphasis added)); *Mayes v. Kaiser Foundation Hosps.*, 917 F.
 22 Supp. 2d 1074, 1079-80 (E.D. Cal. 2013) (citing *Swierkiewicz* but dismissing the plaintiff's
 employment discrimination claims because the plaintiff "provides no meaningful detail
 suggesting the termination was because of his race or sex"). The fourth element of the
McDonnell Douglas framework pertains primarily to this causal connection; thus, when the court
states that Ms. Akmal has failed to satisfy the fourth element of the *McDonnel Douglas*
framework, the court also means that Ms. Akmal has not plausibly pleaded a causal connection
between her protected status and an adverse employment action.

1 GlobalScholar said or did anything negative regarding her religion, race, sex, or age.⁶

2 Ms. Akmal's allegations therefore do not support a reasonable inference that

3 GlobalScholar terminated her contract because of her protected status.

4 Ms. Akmal also suggests that GlobalScholar subjected her to an adverse
5 employment action when it forced her to start her job by attending training in Atlanta.

6 (See *id.* ¶¶ 51, 83.) She contrasts this treatment with the experience of Megan, the
7 Caucasian employee whom Ms. Akmal met in Atlanta. (See *id.*) Megan worked for three
8 weeks before attending training in Atlanta, which Ms. Akmal suggests gave Megan
9 additional paid time to learn her job. (See *id.*)

10 To begin, the manner in which Ms. Akmal began her job does not constitute an
11 adverse employment action. See *Cornwell*, 439 F.3d at 1028. GlobalScholar at most
12 asked Ms. Akmal to learn her job quickly, yet the court is not aware of any case holding
13 that asking an employee to learn a job quickly is an adverse employment action. Even if
14 it were adverse, moreover, Ms. Akmal fails to allege facts sufficient to show a causal
15 connection to a protected status. See *Mayes*, 917 F. Supp. 2d at 1079-80. She identifies
16 one Caucasian employee, Megan, who worked for three weeks before attending training,
17 but such allegations fall short of showing that another similarly situated employee was
18 treated more favorably. Ms. Akmal alleges nothing about Megan other than she is
19 Caucasian, works for GlobalScholar, and was training in Atlanta. (See Am. Compl.

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21 ⁶ Thus, although she alleges that GlobalScholar employees made comments "which
22 seemed to reference the Islamic State" (Am. Compl. ¶ 67), she does not allege what those
comments were, to whom they were directed, or whether they had any relation to her.

1 ¶ 51.) These allegations fail to show that Megan is similarly situated with respect to Ms.
2 Akmal. *See Moran v. Selig*, 447 F.3d 748, 755 (9th Cir. 2006) (stating that valid
3 comparators must be similar to the plaintiff “in all material respects”). In sum, then, Ms.
4 Akmal has not plausibly pleaded her Title VII and § 1981, and so the court must dismiss
5 those claims.

6 2. Religious discrimination under WLAD

7 Ms. Akmal’s WLAD religious discrimination claim pertains to her allegation that
8 a GlobalScholar employee named Gunny asked her about the origin of her name during
9 her in-person interview. (See Am. Compl. ¶¶ 3, 35, 88.) That question, she claims,
10 amounts to a prohibited pre-employment inquiry under RCW 49.60.180(4) and .200
11 because it elicited a response informing Gunny that she is a Muslim. (See *id.*) The
12 statutory language betrays Ms. Akmal’s claim, however. Pursuant to RCW 49.60.180(4)
13 and .200, employers and employment agencies may not “make any inquiry in connection
14 with prospective employment, which expresses any limitation, specification, or
15 discrimination as to . . . creed . . .” RCW 49.60.180(4), .200. A question about the
16 origin of an applicant’s name cannot, without more, reasonably be said to express a
17 “limitation, specification, or discrimination” as to religion merely because the question
18 elicits a response about the person’s religion. This conclusion has particular force here,
19 where GlobalScholar hired Ms. Akmal shortly after learning her religion. (See Am.
20 Compl. ¶¶ 35, 46-47.) The court therefore dismisses Ms. Akmal’s WLAD claim as not
21 plausibly pleaded.

1 3. Retaliation under Title VII

2 Finally, Ms. Akmal claims that GlobalScholar retaliated against her for engaging
3 in protected activity. (*See id.* ¶¶ 7-9, 90-97.) “To make out a *prima facie* case of
4 retaliation, an employee must show that (1) he engaged in a protected activity; (2) his
5 employer subjected him to an adverse employment action; and (3) a causal link exists
6 between the protected activity and the adverse action.” *Davis v. Team Elec. Co.*, 520
7 F.3d 1080, 1093-94 (9th Cir. 2008); *Okeke v. Biomat USA, Inc.*, 927 F. Supp. 2d 1021,
8 1026 (D. Nev. 2013) (applying this framework in evaluating a motion to dismiss); *see*
9 *also supra* n.5. “Essential to a causal link is evidence that the employer was aware that
10 the plaintiff had engaged in the protected activity.” *Cohen v. Fred Meyer, Inc.*, 686 F.2d
11 793, 796 (9th Cir. 1982). Ms. Akmal’s retaliation claim fails because she has not pleaded
12 facts showing a causal connection between protected activity and an adverse employment
13 action. Ms. Akmal identifies the following as her protected activity: (i) a lawsuit that she
14 filed against a different employer before she began working for GlobalScholar and (ii) a
15 Federal Tort Claims Act, 28 U.S.C. §§ 2671-80, suit that she filed against the
16 Transportation Safety Administration, also before she began working with
17 GlobalScholar. (*See Am. Compl.* ¶¶ 7-9, 90-97.) Even assuming that her lawsuits
18 constitute protected activity, Ms. Akmal alleges nothing from which the court could
19 reasonably infer that GlobalScholar knew about either lawsuit, let alone fired or
20 otherwise mistreated Ms. Akmal because of either lawsuit.

21 Ms. Akmal also alleges that she endured retaliation after she filed her charge with
22 the WHRC in this matter; however, these allegations are conclusory. (*See id.* ¶¶ 9, 94

1 (“[The Defendants] are still targeting and retaliating against the Plaintiff because she
2 reported their behavior to an investigative civil rights agency and because she is pursuing
3 legal action.”). She identifies neither the adverse action she endured nor any facts
4 connecting the alleged retaliation to GlobalScholar. (*See id.*) These allegations therefore
5 afford no basis for denying GlobalScholar’s motion. Accordingly, the court dismisses
6 Ms. Akmal’s retaliation claim.

7 **C. Defendants Craig Chesser and Greythorn**

8 Ms. Akmal’s amended complaint also attempts to assert claims against Craig
9 Chesser and Greythorn. (*See id.* at 1, ¶¶ 17-18.) As with her claims against
10 GlobalScholar, however, Ms. Akmal does not plead facts sufficient to support these
11 claims. Ms. Akmal alleges nothing about Mr. Chesser other than that he works for
12 GlobalScholar and Greythorn. (*See id.* ¶ 18.) The amended complaint contains more
13 information about Greythorn but no factual allegations from which the court could infer
14 that Greythorn discriminated or retaliated against Ms. Akmal. Under 28 U.S.C.
15 § 1915(e), district courts have authority to review in forma pauperis complaints and must
16 dismiss them if “at any time” it is determined that a complaint is frivolous or fails to state
17 a claim for which relief may be granted. 28 U.S.C. § 1915(e)(2). Having examined the
18 amended complaint in detail, the court concludes that Ms. Akmal’s claims against Mr.
19 Chesser and Greythorn should be dismissed under § 1915(e) for failure to state a claim.

20 **D. Dismissal with Prejudice**

21 As a general rule, when a court grants a motion to dismiss, the court should
22 dismiss the complaint with leave to amend. *See Eminence Capital, LLC v. Aspeon, Inc.*,

1 316 F.3d 1048, 1051-52 (9th Cir. 2003) (citing Fed. R. Civ. P. 15(a)). In determining
2 whether dismissal without leave to amend is appropriate, courts consider such factors as
3 undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to
4 cure deficiencies by amendments previously allowed, undue prejudice to the opposing
5 party by virtue of allowance of the amendment, and futility of amendment. *Foman v.*
6 *Davis*, 371 U.S. 178, 182 (1962). The Ninth Circuit has further instructed that a district
7 court should not dismiss a pro se complaint without leave to amend unless “it is
8 absolutely clear that the deficiencies of the complaint could not be cured by amendment.”
9 *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012) (quoting *Schucker v. Rockwood*,
10 846 F.2d 1202, 1203 (9th Cir. 1988)); *see also Eminence Capital*, 316 F.3d at 1052
11 (noting that dismissal with prejudice is appropriate only if it would be “clear on de novo
12 review that the complaint could not be saved by amendment”).

13 Here, the court finds dismissal with prejudice and without leave to amend is
14 appropriate because it is absolutely clear that Ms. Akmal cannot cure the deficiencies in
15 her amended complaint by amendment. *See Akhtar*, 698 F.3d at 1212; *Eminence*, 316
16 F.3d at 20152. The court previously dismissed Ms. Akmal’s complaint for failure to
17 allege sufficient facts and granted her leave to amend. Ms. Akmal took advantage of that
18 opportunity, but her amended complaint repeats the same error as it lacks facts sufficient
19 to make any of her claims plausible. Further, Ms. Akmal has had ample time to develop
20 factual allegations to support her claims—she filed this case in December 2014
21 concerning events that allegedly took place in the spring of 2012. (*See* Compl.; Am.
22 Compl.) Finally, although Ms. Akmal is pro se, she is an experienced pro se litigant who

1 is familiar with federal pleading standards, including as they apply to employment
2 discrimination claims. *See Akmal v. City of Kent*, No. C13-0379JLR (W.D. Wash.)
3 (entailing two successful motions to dismiss and final *sua sponte* dismissal); *Akmal v.*
4 *Terra Staffing Group*, No. C13-5113BHS (W.D. Wash.) (involving successful motions to
5 dismiss and final dismissal of federal employment discrimination claims following
6 review of amended complaint); *Akmal v. Centerstance, Inc.*, No. C11-5378RJB (W.D.
7 Wash.) (involving successful motions to dismiss federal employment discrimination
8 claims). These factors make it absolutely clear to the court that Ms. Akmal cannot save
9 her amended complaint by amendment.

10 **IV. CONCLUSION**

11 For the foregoing reasons, the court GRANTS GlobalScholar's motion to dismiss
12 and DISMISSES this case WITH PREJUDICE.

13 Dated this 9th day of October, 2015.

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JAMES L. ROBART
United States District Judge